

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION
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CLERK'S OFFICE

FRESHLOC TECHNOLOGIES, INC.

Plaintiff,

vs.

WHERE NET CORPORATION

Defendant.

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4-03 CV 1494-A
Civil Action No. _____

COMPLAINT

Plaintiff FreshLoc Technologies, Inc. ("FreshLoc") brings this action against the Defendant WhereNet Corporation ("WhereNet") and for its cause of action alleges:

The Parties

1. FreshLoc is a corporation organized and existing under the laws of the State of Texas, with its principal place of business at 15443 Knoll Trail, Suite #100, Dallas, Texas 75248.

2. Upon information and belief, WhereNet is a corporation organized and existing under the laws of the State of California and is doing business in this judicial district and elsewhere. WhereNet may be served with process by serving its registered agent, Patrick Murray, 2858 De La Cruz Boulevard, Santa Clara, California 95050.

Jurisdiction and Venue

3. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281 and Title 28 United States Code, particularly §1338(a). Venue is proper in this Court under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

Claim For Patent Infringement

4. On June 2, 1992, U.S. Patent No. 5,119,104 ("the '104 patent") was duly and legally issued for "Location System Adapted for Use in Multipath Environments". A copy of the

'104 patent is attached as Exhibit A and is made a part hereof. By assignment, FreshLoc is the owner of the '104 patent and at all relevant times has had the right to enforce the '104 patent.

5. On July 25, 2000, U.S. Patent No. Re. 36,791 ("the '791 patent") was duly and legally issued for "Location System Adapted for Use in Multipath Environments". A copy of the '791 patent is attached as Exhibit B and is made a part hereof. The '791 patent is the result of a reissue application filed on the '104 patent on June 2, 1994. By assignment, FreshLoc is the owner of the '791 patent and at all relevant times has had the right to enforce the '791 patent.

6. The '104 and '791 patents, in general, relate to position location systems, and more particularly to a radiolocation system adapted for use in an environment subject to multipath effects. More specifically, some claims of the '104 and '791 patents relate to such systems that accomplish position location using time-of-arrival differentiation for radiolocation transmissions received at multiple receivers.

7. Upon information and belief, Defendant provides position location systems, including but not limited to its Wherenet Real Time Locating System. By providing such systems Defendant has in the past and continues to infringe directly, by inducement, or by contributing to the infringement of the '791 patent, including but not limited to claims 1 and 40.

8. As a result of Defendant's infringing conduct, Defendant has damaged FreshLoc. The Defendant is liable to FreshLoc in an amount that adequately compensates FreshLoc for its infringement, which by law in no event can be less than a reasonable royalty.

9. As a consequence of the Defendant's infringement, FreshLoc has been irreparably damaged and such damage will continue without the issuance of an injunction by this Court.

Demand for Jury Trial

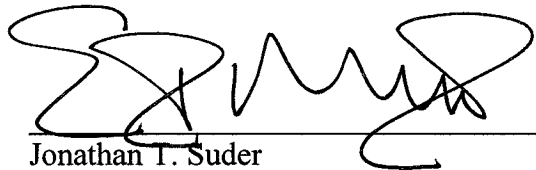
10. FreshLoc demands a jury trial on all issues triable of right by a jury.

Prayer for Relief

WHEREFORE, FreshLoc prays for entry of judgment:

- A. That claims 1 and 40 of U.S. Patent Re. 36,791 have been infringed by the Defendant and by others whose infringement has been contributed to and/or induced by Defendant;
- B. That Defendant and each of its officers, agents, employees, representatives, successors, assigns and those acting in privity or concert with them be permanently enjoined from further infringement of U.S. Patent Re. 36,791.
- C. That Defendant accounts for and pays to FreshLoc all damages and costs caused by Defendant's activities complained of herein;
- D. That FreshLoc be granted pre-judgment and post-judgment interest on the damages caused by reason of Defendant's activity complained of herein;
- E. That FreshLoc be granted its attorneys' fees in this action;
- F. That costs be awarded to FreshLoc; and
- G. That FreshLoc be granted such other and further relief that is just and proper under the circumstances.

Dated: December 30, 2003



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Dated: December 30, 2003

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